

REMARKS

The following amendment is in response to Office Action dated January 28, 2008. This response is being filed with a request for a two month extension of time.

Currently, claims 1 to 25 are pending in the application. Applicant respectfully draws the Examiner's attention to the Office Action Summary wherein he lists that claims 1-20 are currently pending and that claims 1 – 20 are rejected and claim 2 is objected to. Applicants appreciate the Examiner's attention to this matter and the clarification concerning the status of claims 21-25 which depend upon claims 18, 11, 10, 13, 14 which are rejected under 35 U.S.C. §103(a).

The Examiner has objected to claim 2 stating that the Applicants should recite the limitation being referred to in subsection (i) of claim 2 instead of reciting "the apparatus defined according to claim 1." In response to the objection Applicants have amended claim 2 accordingly. Applicants respectfully request the withdrawal of the objection.

The Examiner has rejected claims 1-20 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. It is the Examiner's position the limitation "said hollow enclosure means" in claims 1 and 2 lack proper antecedent basis. In response to this rejection Applicants have amended claims 1 and 2 to recite the proper antecedent basis. Applicants respectfully request withdrawal of this rejection.

The Examiner has rejected Claims 1, 3 and 4 under 35 U.S.C. §102(b) as being anticipated by Ledig U.S. Patent No. 6,495,375 (herein referred to as Ledig).

In contrast to the claimed invention Ledig does not disclose the use of solid-spheres and/or ellipsoids as recited in claim 1, as follows:

(I) a plurality of mobile solid-state spheres and/or ellipsoids each of which has a weight of from about 1 gm to about 100 gm, a density of from about 2 gm/cc to about 10 gm/cc, an average diameter of from about 0.5 cm to about 3.0 cm. and a surface hardness Knoop value in the range of from about 160 to about 220 and (II) inter-leaved between layers of said plurality of spheres and/or ellipsoids, semi-solid substrate sections having laminar surfaces, each of which has adhered thereto a plurality of said volatile substance-containing rupturable microcapsules each of which has a surface hardness Knoop value in the range of from about 10 to about 20 and a microcapsule wall tensile strength several orders of magnitude less than the tensile strength of each of said solid-state spheres and/or ellipsoids, with the range of mass ratios of said plurality of spheres and/or ellipsoids:semi-solid substrate sections being in the range of from about 20:1 to about 100:1

To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim (*See, Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001); *Scripps Clinic & Research Foundation v. Genetech, Inc.*, 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). Thus, claims 1, 3 and 4, are considered novel and not anticipated by Ledig. Accordingly, this 35 U.S.C. § 102 (b) rejection is believed to be overcome.

The Examiner has also rejected claims 1, 3 and 4 under 35 U.S.C. § 102(b) as being anticipated by Elmore et al., Comparison of Dynamic Headspace Concentration on Tenax with Solid Phase Microextraction for the Analysis of Aroma Volatiles, 1997 (herein referred to as “Elmore”).

In contrast to the claimed invention Elmore does not disclose the use of solid-spheres and/or ellipsoids as recited in claim 1, as follows:

(I) a plurality of mobile solid-state spheres and/or ellipsoids each of which has a weight of from about 1 gm to about 100 gm, a density of from about 2 gm/cc to about 10 gm/cc, an average diameter of from about 0.5 cm to about 3.0 cm. and a surface hardness Knoop value in the range of from about 160 to about 220 and (II) inter-leaved between layers of said plurality of spheres and/or ellipsoids, semi-solid substrate sections having laminar surfaces, each of which has adhered thereto a plurality of said volatile substance-containing rupturable microcapsules each of which has a surface hardness Knoop value in the range of from about 10 to about 20 and a microcapsule wall tensile strength several orders of magnitude less than the tensile strength of each of said solid-state spheres and/or ellipsoids, with the range of mass ratios of said plurality of spheres and/or ellipsoids:semi-solid substrate sections being in the range of from about 20:1 to about 100:1

To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim (*See, Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001); *Scripps Clinic & Research Foundation v. Genetech, Inc.*, 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). Thus, claims 1, 3 and 4, are considered novel and not anticipated by Elmore. Accordingly, this 35 U.S.C. § 102 rejection is believed to be overcome.

The Examiner has rejected Claims 1 and 3-4 under 35 U.S.C. § 102(e) as being anticipated by Brain et al. U.S. Pub. No. 2004/0072720.

In response, Applicants herewith submit that the instant application and Brain et al. U.S. Pub. No. 2004/0072720 was, at the time the invention of the instant application was made, commonly owned by International Flavors & Fragrances Inc. A declaration under 37 C.F.R. § 1.130, a terminal disclaimer in accordance with § 1.1321(c) together with a fee required under 37 CFR § 1.20(d) are enclosed herewith. Accordingly, Applicants respectfully submit that the rejection of claims 1-19 under 35 U.S.C. § 103(a) over Brain et al. U.S. Pub. No. 2004/0072720 is improper and Applicants respectfully request these rejections to be withdrawn.

Claims 2 and 5-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Brain et al. U.S. Pub. No. 2004/0072720 in view of Schmidt U.S. Patent No. 4,973,422.

It is the Examiner's position that it would have been obvious to a person or ordinary skill in the art to modify Brain's microcapsule by a making a microcapsule with a surface hardness from about 10 to about 20 because it would be desirable to create a microcapsule with a particular rigidity level to ensure that the volatile substance inside the microcapsule is not prematurely released from the microcapsule.

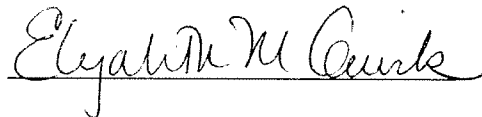
In response, Applicants herewith submit that the instant application and Brain et al. U.S. Pub. No. 2004/0072720 was, at the time the invention of the instant application was made, commonly owned by International Flavors & Fragrances Inc. A declaration under 37 C.F.R. § 1.130 and a terminal disclaimer in compliance with 37 CFR § 1.321, together with a fee required under 37 CFR § 1.20(d) are enclosed herewith. Accordingly, Applicants respectfully submit that the rejection of claims 1-19 under 35 U.S.C. § 103(a) over Brain et al. U.S. Pub. No. 2004/0072720 is improper and Applicants respectfully request these rejections to be withdrawn.

Conclusion:

In view of the foregoing, Applicants respectfully request reconsideration, withdrawal of rejections, and allowance of all claims is earnestly solicited.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment to the Deposit Account No. 12-1295.

Respectfully submitted,

A handwritten signature in cursive script, reading "Elizabeth M. Quirk". The signature is written in dark ink and is positioned above the printed name.

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